DOCUMENT RESUME

ED 412 638 EA 028 714

AUTHOR	Schoppmeyer, Martin W.
TITLE	Arkansas School Finance Plan--Unconstitutional Again.
PUB DATE	1997-03-00
NOTE	7p.; Paper presented at the Annual Meeting of the American Educational Research Association (Chicago, IL, March 24-28, 1997).
PUB TYPE	Reports - Evaluative (142) -- Speeches/Meeting Papers (150)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Budgeting; Categorical Aid; *Constitutional Law; Educational Administration; *Educational Equity (Finance); Educational Finance; Elementary Secondary Education; Equalization Aid; *Expenditure Per Student; Gifted; *Legal Problems; School Districts; *Special Education; State Legislation; *State Programs; Vocational Education
IDENTIFIERS	*Arkansas

ABSTRACT

The Arkansas school finance equity suit titled "Lakeview vs. Tucker" was heard in 1994, and the state funding formula was declared unconstitutional. With much difficulty, a new law was passed to combine a number of previously categorical funds into the instructional budget. However, the constitutionality of the new law remains in question. The new act does away with all forms of weighting, which had included special education, vocational education, and education for the gifted and talented. The bill does tend to equalize expenditures per pupil among the districts with the notable exception being districts under a federal court order for desegregation. Ignoring them means that funds-per-pupil meet the Federal Range Ratio, which the proponents of the bill claim meets the test of equity. In fact, more is taken from the apparent equity in one district than in another. The new law violates vertical equity by setting caps on the number of students classified in each of the groups (special, vocational, gifted, or at-risk). The new law also makes Arkansas the only state in the nation where no funds are added for special education over the base amount. This is also probably true for vocational education and for gifted and talented education. Abandoning the weights of the previous law was an error since there are no longer any distinctions due to cost of exceptionality or vocational programs. The new law has been challenged in the courts, but the issue has not yet been resolved, and the constitutionality of the new funding approach remains in question. (SLD)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

TM

ED 412 638

Arkansas School Finance Plan–Unconstitutional Again

A paper presented at the American Educational Research Association

by

Martin W. Schoppmeyer
University Professor

University of Arkansas
Fayetteville

March 24-28, 1997

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
✓ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY
M. Schoppmeyer
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

EA 028 714

BEST COPY AVAILABLE

Arkansas School Finance Plan–Unconstitutional Again

The school finance equity suit then titled Lakeview vs. Tucker, was heard in September 1994. In November, the judge declared the state funding formula unconstitutional. She then gave the state two years to develop a legal formula.

Time passed. A commission of legislators developed a new formula by the winter of 1995. The governor developed his own plan regarding which he would release features week-by-week. A standoff occurred between the governor and legislature. Finally, a compromise was reached and Act 917 became law in 1995 and was to take effect in the 1996-97 school year.

What the act does is to combine a number of previously categorical funds into the instructional budget. These included transportation aid, teacher retirement, and the state contribution to school employees health insurance. The act does away with all forms of weighting which had included Special Education, Vocational Education and Education for the Gifted and Talented. No added money for these purposes is provided over the base aid amount which is approximately equalization. Instead of weights percentages of the total budget are to be used to pay for the previously weighted instruction.

The bill does tend to equalize which seems to be expenditures per pupil among districts with the notable exception being those under a federal court order for desegregation. Ignoring them, the funds per pupil meet the Federal Range Ratio which the proponents of the bill claim meets the test of equity.

Actually, due to the machinations in developing the apparent equity, there is considerable difference in what is spent on the instruction of a non-handicapped child. This is due to the simple fact that more is taken from the apparent equity in one district than another. That is more is taken away for

Transportation

Teacher Retirement

Employee Health Insurance

Special Education

Gifted and Talented Education

Alternative Schools, and so on

What this means is that there is no equity and no real meeting of the federal range ratio.

Even though all districts are taxing themselves at 25 mills for maintenance and operation, it would seem that Arkansas is on the verge of equity. In fact, it will not be close to horizontal equity. Horizontal equity means the equal treatment of equals. Establishing it was the point of both the Alma and Lakeview cases.

However, this will not solve the equity problem. There is also another form of equity–Vertical Equity. This means unequal treatment for unequals. Translating that into more understandable language it means that spending the same amount of funds on a higher than normal cost student, regardless of the school they attend in the state. This means the same amount will be devoted to a special education student if a similarly exceptionality, a vocational education student taking a similar program, a gifted and talented student and an at-risk student regardless of their residence or school attended.

Act 917 violates vertical equity. It does so chiefly by setting caps on the number of students classified in each of the groups. For example for special education

> (2) Local School Districts shall expend state and local revenues on students evaluated as special education students in accordance with existing federal and state laws and Department regulations as such laws and regulations shall be amended from time-to-time and based on the following criteria:

(A) Calculate a three-year average percentage not to exceed twelve and one-half percent (12.5%), based on the three (3) immediately preceding December 1 counts of students in special education; and

(B) Multiply the three-year average not to exceed twelve and one-half percent (12.5%) times the average daily membership and multiply the results times sixty-four hundredths (.64) times the Base Local Revenue Per Student.

(3) Local School Districts shall expend from state and local revenues not less than the following amounts on Vocational Education students in accordance with rules and regulations promulgated by the State Board of Education: The previous year's ADM participating in vocational education programs multiplied by thirty-four hundredths (.34) times the Base Local Revenue Per Student. Participating Local School Districts shall transfer to approved vocational centers all funds that districts have previously transferred to such centers on an ADM basis.

(4) Local School Districts shall expend from state and local revenues not less than the following amounts on Alternative Education Programs in accordance with rules and regulations promulgated by the State Board of Education: The previous year's ADM participating in alternative education, up to two percent (2%) of the previous year's ADM, multiplied by fifteen hundredths (.15) times the Base Local Revenue Per Student.

(5) Local School Districts shall expend from state and local revenues not less than the following amounts on gifted and talented programs in accordance with rules and regulations promulgated by the State Board of Education: the previous year's ADM participating in gifted and talented programs, up to five (5%) of the previous year's ADM, multiplied by fifteenth hundredths (.15) times the Base Local Revenue Per Student.

This method places caps on both the number of eligibles as well as total amounts of money to be spent. It also makes no distinction as to programs or revenues received.

More important it makes Arkansas the only state in the union where no funds are added for Special Education over the base amount. This is also probably true of vocational education and gifted and talented education.

Thus, if we assume that a district has 13% in special education or that the exceptionalities which exist are more expensive to service, then funds will run out. Two courses of action are then open. Money can be taken from average students and devoted

BEST COPY AVAILABLE

to special education. This destroys vertical equity for average students as well as putting horizontal equity in question.

A second alternative would be to cheapen or lessen the service to the special education child. This is an obvious violation of vertical equity. Hence, it must be concluded that neither alternative is proper or legal, if equity is to be attained.

The difficulty arises from sources other than the caps, although it is the main one. A secondary difficulty arises from the fact that the law provides no distinction between type of exceptionality or kinds of vocational programs which students take. Variations in cost are not considered. Therefore, in one district the number of high cost children may well exceed the formula driven amounts while in another district with the same proportion of students in low cost programs there may well be a surplus of funds.

Abandoning the weights of Act 34 was indeed an error. Not only is there no distinction as to cost but the two year grace period granted by the court could have been well used to establish them if the weights in Act 34 were considered erroneous.

Therefore, it would seem that the violation of vertical equity are such that the constitutionality of the new law is in serious question.

Suddenly a second law suit challenged the law. For the past several years the three districts in Pulaski County, Little Rock, North Little Rock, and the County districts have been under a Federal Court Order and a desegregation suit settlement agreement. These three districts moved for a summary judgement asking the court to find "that requiring them to pay teacher retirement matching contributions from state equalization funding a local funds violates the desegregation settlement agreement with the State."[1]

---

[1] *Little Rock School District vs Pulaski County Special School District No. 1 et al.*, February 13, 1997 (filed), U. S. District Court, Eastern District of Arkansas, LR-C-82-866.

Under this agreement the state agreed to pay its share of any and all programs for which the districts received state fundings. The districts will receive less for teacher retirement under the new law. Therefore, the court issued a summary judgement stating that.

"Basing the funding of teacher retirement matching on a formula that does not consider the eligible salaries paid by each school district to its employees works to the detriment of the three Pulaski County school districts and in effect punish them for their desegregation obligation."[4]

Therefore teacher retirement can no longer be an item in the equal dollar amount in the law.

The suit, now titled Lakeview vs. Huckabee as a new governor is now in office, should have been heard in November 1996. However, the presiding judge had been elected to the State Supreme Court and determined that because of the number of witnesses that various intervenors in the suit proposed to call there was not time for her to hear the case. Thus, it has been given to another judge who as yet set no dates for a hearing.

Therefore, an attempt must be made to have the legislature change at least part of the law without going back to court. However, no determination has been made. The questions of constitutionality still remains.

---

[4] *Little Rock School District vs Pulaski County Special School District No. 1 et al.*, February 13, 1997 (filed), U. S. District Court, Eastern District of Arkansas, LR-C-82-866.[4]